

Remarks

Introduction

Claims 1-28 are pending in the application.

Claims 2-4, 6-10, 12-14, 16-18, 20-24, and 26-28 are withdrawn from consideration.

Claims 1, 11, 15, and 25 are rejected under 35 U.S.C. § 102(e) as being anticipated by Stronach U.S. Patent 6,722,980 (hereinafter "Stronach").

Claims 5 and 19 are rejected under 35 U.S.C. § 103(a) as being obvious over Stronach in view of Acres et al. U.S. Patent 6,364,768 (hereinafter "Acres").

Applicants' Reply

Claims 1, 11, 15, and 25 are rejected under 35 U.S.C. § 102(e) as being anticipated by Stronach. Claims 5 and 19 are rejected under 35 U.S.C. § 103(a) as being obvious over Stronach in view of Acres. These rejections are respectfully traversed.

According to applicants' independent claims 1 and 15, a wagerer is determined to be recognized based on one criterion of a plurality of criteria. Each criterion of the plurality of criteria is associated with a different incentive. When the wagerer is determined to be recognized based a particular criterion, the wagerer is provided with the incentive associated with that criterion.

For example, when a wagerer is recognized for opening a new wagering account, the wagerer may be provided with a free amount of wagers, however when the wagerer is recognized for placing his first wager, the wagerer may be provided with a special congratulations and good luck message. See applicants' specification, page 12, lines 6-

25. Thus, different incentives are provided depending on the criterion used for recognizing the wagerer.

The Examiner contends that Stronach shows all of the elements of applicants' independent claims 1 and 15. In particular, the Examiner contends that Stronach shows "determining if the wagerer is to be recognized based on one criterion of a plurality of criteria, wherein each criterion of the plurality of criteria is associated with a different incentive," and "when the wagerer is determined to be recognized based on the one criterion, providing the incentive associated with the one criterion to the wagerer," as specified by applicant's independent claims 1 and 15.

In support for this contention the Examiner states that these features of applicants' claims are "inherent [in] the prize selection algorithm of Stronach." Office Action, page 3, lines 8-9 (emphasis added). More specifically the Examiner states that:

Stronach identifies every certain amount of wager submissions and [uses] a prize selection algorithm to determine a prize according to the particular amount of wager submission[s]; further, the selection algorithm may be a random seed. Therefore the prize (or incentive) determined by the algorithm for every certain amount of wager submissions should be different from time to time.

Office Action, page 4, line 20 through page 5, line 3. The Examiner also states that "payout tables maybe [sic] provided for the wager type other than the win wager type," implying that a payout table may be provided for the prize selection algorithm as well. Office Action, page 3, lines 10-11. Applicants respectfully disagree with the Examiner's contention.

When a reference is silent about an asserted inherent characteristic, evidence is required to show that the missing descriptive matter is necessarily present. See Continental Can Co. USA v. Monsanto Co., 948 F.2d 1264, 1268 (Fed. Cir. 1991). The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. See In re Rijckaert, 9 F.3d 1531, 1534 (Fed. Cir. 1993). Applicants respectfully submit that the Examiner has failed to provide any evidence with respect to the assertion that the prize selection algorithm of Stronach inherently shows applicants' claimed feature of determining if the wagerer is to be recognized based on one criterion of a plurality of criteria and providing the incentive associated with that one criterion to the wagerer.

In fact, applicants respectfully submit that the Examiner has mischaracterized the prize selection algorithm of Stronach. The prize selection algorithm may trigger the provision of a prize to a user either randomly or based on the cumulative amount of wager submissions received from one or many wagering terminals. See Stronach, column 11, lines 6-14. The prizes may include, for example, a credit to the users wagering account or other types of prizes. See Stronach, column 10, line 66 through column 11, line 5. However, Stronach does not show or suggest that there is any association between the reasons that a prize is provided (i.e., the criterion) and the types of prizes that are provided (i.e., the incentive). Thus, even if the prize provided is "different from time to time" as the Examiner contends, this still does not show the features of applicants' independent claims 1 and 35 whereby the

incentive provided is associated with the criterion used to determine whether to recognize the wagerer.

Further, applicants respectfully submit that the Examiner's implicit contention that there are payout tables associated with the prize selection algorithm is similarly without merit. The Examiner cites a portion of Stronach that states "payout tables may be provided for wager types other than the win wager type." Stronach, column 17, lines 3-4. In the background portion of Stronach, Stronach refers to the various wager types used in parimutuel wagering (e.g., win, place, show, exacta, triacta, etc.). See Stronach, column 1, lines 43-44. Thus, when Stronach refers to payout tables for wager types other than the win wager type, Stronach is referring to payout tables for the place wager type, the show wager type, the exacta wager type, the triacta wager type, etc. However, because wager payouts are not prizes, there is nothing in Stronach to suggest that a payout table is provided in connection with the prize selection algorithm of Stronach. Thus, this portion of Stronach also does not show the features of applicants' independent claims 1 and 35 whereby the incentive provided is associated with the criterion used to determine whether to recognize the wagerer.

Therefore Stronach does not show or suggest (a) that each criterion of a plurality of criteria is associated with a different incentive and (b) when a wagerer is determined to be recognized based on a criterion, an incentive is provided to the wagerer that is associated with that criterion, as specified by applicants' amended independent claims 1 and 15.

Accordingly, because Stronach fails to show or suggest every limitation of applicants' independent claims

1 and 15, the rejection of claims 1 and 15 over Stronach under 35 U.S.C. § 102(e) should be withdrawn.

Claims 5, 11, 19, and 25 depend from independent claims 1 and 15, respectively. Accordingly, for at least this reason the rejection of dependent claims 5, 11, 19, and 25 should also be withdrawn.

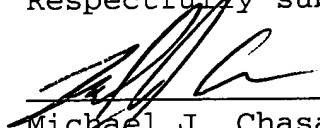
Claims 2-4, 6-10, 12-14, 16-18, 20-24, and 26-28

Claims 2-4, 6-10, 12-14, 16-18, 20-24, and 26-28 were withdrawn from consideration because no generic claim was found to be allowable. However, as demonstrated above, generic independent claims 1 and 15 are in condition for allowance. Accordingly, applicants respectfully request consideration and allowance of claims 2-4, 6-10, 12-14, 16-18, 20-24, and 26-28.

Conclusion

For at least the reasons set forth above, applicants respectfully submit that this application is in condition for allowance. Reconsideration and prompt allowance of this application are respectfully requested.

Respectfully submitted,



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